

AMENDED IN SENATE APRIL 5, 2006

**SENATE BILL**

**No. 1545**

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**Introduced by Senator Poochigian**

**(Coauthors: Senators Battin, Cox, and Margett)**

*(Coauthors: Assembly Members Benoit, Bogh, Cogdill, Daucher, DeVore, Shirley Horton, Karnette, La Suer, Mountjoy, Nakanishi, and Spitzer)*

February 23, 2006

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An act to ~~amend Sections 12025 and 12031 of~~ *add Section 12022.52* to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1545, as amended, Poochigian. Firearms.

Existing law makes it an offense to carry a concealed firearm, as specified. Existing law imposes various penalties for this offense, based on prior criminal history and other circumstances.

This bill would ~~impose a sentence of 10 years in the state prison for the offense if the person has previously been convicted of a felony and certain other convictions or circumstances exist, as specified~~ *an additional and consecutive term of 10 years in state prison upon a person who was prohibited from possessing a firearm because of a previous felony conviction, and who is convicted of another felony related to carrying a concealed weapon or loaded firearm, if specified additional circumstances exist.*

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

~~Existing law, subject to exceptions, makes it an offense to carry a loaded firearm, as specified. Existing law imposes various penalties~~

~~for this offense, based on prior criminal history and other circumstances.~~

~~This bill would impose a sentence of 10 years in the state prison for the offense if the person has previously been convicted of a felony and certain other convictions or circumstances exist, as specified.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 12022.52 is added to the Penal Code, to
- 2     read:
- 3     12022.52. (a) Notwithstanding any other provision of law,
- 4     any person prohibited from possessing a firearm because of a
- 5     previous felony conviction, upon conviction for violation of
- 6     Section 12025 or 12031, shall be punished by an additional and
- 7     consecutive term of 10 years in state prison if any of the
- 8     following circumstances are pled and proven:
- 9     (1) The offender was previously convicted of any one of the
- 10    following:
- 11    (A) Felonious possession of a firearm.
- 12    (B) Felonious manufacture, sale, possession for sale, or
- 13    transport of a controlled substance.
- 14    (C) Felonious assault or battery of a peace officer.
- 15    (D) A violent felony.
- 16    (E) A felony gang offense that constitutes a violation of
- 17    Section 186.22.
- 18    (2) If, at the time of the arrest that resulted in conviction for
- 19    violation of Section 12025 or 12031, any of the following:
- 20    (A) The offender was on probation, parole, free on bail,
- 21    awaiting sentencing, or subject to a felony arrest warrant.

1     (B) The offender was in felonious possession of a controlled  
2 substance.

3     (C) The offender feloniously assaulted or battered a peace  
4 officer by means other than a firearm.

5     (b) A person sentenced to a term of imprisonment pursuant to  
6 this section shall not be awarded credits that exceed those  
7 permissible in subdivision (i) of Section 12022.53.

8     (c) If the imposition of an enhanced penalty authorized by this  
9 section would constitute an impermissible dual use of facts, the  
10 provisions shall be applied so as to maximize the sentence.

11     SEC. 2. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.

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22     **All matter omitted in this version of the bill**  
23     **appears in the bill as introduced in**  
24     **Senate, Feb. 23, 2006.**  
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